SPIRIT OF THE PRESS.

EDITORIAL OPINIONS OF THE LEADING JOURNALS UPON CURRENT TOPICS—COMPILED EVERY DAY FOR THE EVENING TELEGRAPH.

The Majority and the Constitution. From the N. Y. Action.

A correspondent, whose letter we print elsewhere, expresses in a few words what is the difficulty of thousands of honest minds with regard to this dispute between Mr. Johnson and Congress-of men, too, who do not approve of Mr. Johnson's course, but who, nevertheless, cannot persuade themselves that he and the Supreme Court have not each as good a right to interpret the Constitutionthat is, define the limits of their own powers -as Congress has. It is, however, quite plain to the commonest intelligence that whatever a written constitution can do, there is one thing it cannot, and that is, prevent these coordinate branches of a government from coming into collision when each attempts to define its own powers. That these collisions have not occurred oftener, or rather have not proved of much moment hitherto, either here or in England, is due simply to the fact that in ordinary times the subjects on which coordinate de partments differ, and the ends they have in view, are not of sufficient importance to tempt any one department into going to extremes. One is almost sure to give up before negotiation is exhausted. Therefore the arrangements made by a written constitution for preserving the balance of power may ordinarily work well. In this country they have worked well. Until the Dred Scott decision, although the powers claimed for the Supreme Court under the Constitution had excited lealousy and grumbling, there was no deliberate and avowed intention not to be bound by its decisions. But the Dred Scott decision touched a point which the majority felt to be vital, and at once the authority of the Court as an interpreter was repudiated by the majority. So, also, the issues raised in this reconstruction process are felt by the majority to be vital, that is, to go to the very foundations of the national existence, and, therefore, the slightest attempt of the Court to control the

stances and in all cases, the judges would govern the country as a small oligarchy, and reform would be hopeless inside half a century. You may assert that they have this power as much as you please, and the majority in quiet times may act as if they had it; but the minute troublous times come, and the majority is satisfied that if it obey the judges the ends for which the judges exist will be defeated, it will not obey them. To argue that this ought not to be so, is idle; you might as well argue that human nature ought to be changed. Perhaps it ought, but governments are made for men as they are and not as they ought to be, and the wit of man is not equal to the task of devising a written constitution which shall be obeyed under all circumstances. Nothing would secure this result but some occult power that would cause anybody who violated it instantly to drop down dead. In two thirds of what is written on the sanctity of the "fundamental law," including the long disquisitions of Mr. G. T. Curtis in the World, there is a false bottom to the thinking. The reasoning is based on the assumption that the Constitution is the ultimate fact of our system of government. This is a delusion. The ultimate fact of this, as of all Governments, is human nature; and until human nature is totally changed, the majority of a great and free country will not allow one man calling himself an executive, or nine men calling themselves a court, to interpret the funda-

mental law when, in the opinion of the ma-

jority, their interpretation would be dangerous

action of Congress would certainly be repu-

disted, and the Court knows it and wisely ab-

If the Supreme Court had the power of in-

terpreting the Constitution under all circum-

stains from meddling.

to the public safety. But this, says "Freedom," means a government of "mere majority, and leaves my breath dependent on their will." He is right. This is exactly what it means. We do live under a Government of the majority. The Constitution is an instrument by which the majority binds itself to refrain from certain acts, but it never gives up its right, in the last resort, of explaining the sense in which it took the pledge, or, in other words, of taking the President or anybody else whom it finds running about and doing mischief, while professing to take "the Constitution for his guide," and putting him under lock and key, if it believes his hermeneutics dangerous to the State. The idea that there is something very horrible in being dependent on the majority of a Christian State for liberty and security, which "Freedom" seems to entertain, is the product of that species of fetish worship of which the Constitution has long been the object. The Constitution, unless it be a talisman, cannot have any more force than the majority gives it. If the majority desires to rob and out throats, there is no virtue in the parchment to If it allows Andrew Johnson and the Supreme Court to define their own powers, it is simply because it does not consider it worth

while to interfere with them. This fact has always been so well understood by the highest class of minds, that in constitutional countries the skill of great statesmen has nearly always been shown in avoiding reliance on the constitution, in per-suading the majority into doing or not doing certain things without falling back on naked legal rights. As soon as a King, President, or Minister says, in exciting times, that he will fall back on the constitution or charter, and act on his own construction of it, he shows himself as much a fool, and is as sure to be destroyed, as a single man who should point his rifle at a regiment. The end and use of statesmanship is to avoid bringing things to this pass. The minute the statesman appeals to force against the majority, the majority measures its own strength against him, and sweeps him aside.

This is just what Andrew Johnson seems this is just what Andrew Johnson seems disposed to do. He says his interpretation of the Constitution is the right one; Congress says its interpretation is the right one. Admitting one to be as likely to be right as the other, who is to decide between them? The Supreme Court is simply, when the destiny of a nation is at stake, nine elderly men. Suppose they throw themselves on Mr. Johnson's side, the result would be that ten elderly men would be of his way of thinking instead of one, because Congress does no regard the Court as any more competent intellectually to decide such questions as are raised in the reconstruction problem than Congress is itself. If the Court were more competent than Congress to decide such questions, it ought to govern the country completely, and the election and meeting of the Legislature is a useless expense, so that in the last resort the dispute can only be ended by the majority using its superiority of force to decide—and this it is sure to do. This may be an unfortunate state of things, but nobody is to blame for it-neither the framers of the Constitution, nor

those who live under it. In every free State the maintenance of liberty and justice—no matter what the written forms may be—depends in the last resort on the character of the majority of the people. sure of his liberty in Philadelphia if the Constitution were abolished to-morrow; he would not be sure of his head or his purse if he lived in Mexico, though every man in the country wore the Constitution in a locket around his neck as an amulet.

Pharach Hardening.

From the N. Y. Church Union, Mr. Johnson keeps steadily on in his insane efforts to resist the will of the nation. It now looks as though he wished to make a martyr of himself, in order to get up another revolution, and get himself into notice. He stands about the best chance to get hanged of any Rebel in or out of the country, we judge, if we read his character correctly, and see what is just ahead of us. That he will fail of becoming a martyr; that he will fail of resuscitating the dead Democratic party; that he will be foiled by the good genius who presides now over our country's conscience, and not be ab e to get up revolution; that the firm but silent man he has gotten into Stanton's place knows his man, and has him as tight as he had his friends Lee and Davis once upon a time; that he will make that public exhibition of his folly before all the nation, so as to eclipse his inaugural spree, and that other stagger round the circle of last summer, we have no doubt. Pray God to harden Pharaoh's heart yet more, and the whole work will be done. The instrument of God is blindly doing His will, and all that is left undone to completely radicalize this nation will, or we are no prophets, shortly be revealed. God is in this man, bad as he is, just as he was in Judas, in Davis, and in the chosen men who do the will of Satan on earth. Thank God for the madness of Mr. Johnson! May he get no better very

The Claims of the United States Against Great Britain,

From the N. Y. Times. The interval between the summary closing of the correspondence on the Alabama claims by Lord Clarendon and the revival of the subject by Mr. Seward a year ago, was long enough to admit of a careful and unimpassioned revision of the international situation. In England they had entered upon a domestic struggle which partook to some degree of the nature of a revolution. The traditional pretensions of the Whigs to take the lead in Constitutional Reform were disputed so stoutly as to cause a party upheaval such as had not been witnessed from the time of Canning, and the minds of British statesmen were so absorbed in the pending conflict that nearly every outside question was held subordinate to the rival interests in home politics. The situation here was not essentially dif-

ferent. For fifteen months we had been traversing the path where military achievement diverged into that of civil reconstruction. We had enough on hand, for the time, to engage the thoughts, the loyal energies, and the statesmanship of the country. The question of prime account was to see that, after the war, the supreme authority of the Government should everywhere be established and recognized throughout the Union. That assurance which had the power of the Government to maintain its credit, and uphold its honor abroad, could not and would not be called in question. The State Department, it is true, held the same ground as to the obligations of friendly powers from the moment belligerent rights were accorded to the belligerents that it holds to day. It need the belligerents that it regard to the Mexican tripartite treaty which ended so abruptly at Soledad, and which led so speedily to the tragedy at Queretaro. as it holds now, when Mexico is rid of the invaders. Mr. Seward's protests against the practical alliance of the powers of Western Europe on the question of according belligerent rights to the Rebels, and of dispossessing the Government of Juarez, were the same from 1862 to 1866 and 1867. There is not a shadow of turning in the whole line of his reasoning. His argument was the same from the retreat at Bull Run to the surrender at Appomattox. Whatever defect it may have shown, it was consistent; and those who are to faithfully trace from a historic point the events of the present revolutionary epoch, will at least be compelled to admit that the foreign policy of the United States, covering the whole of that period, exhibited a unity of purpose, a consistency of effort, a regard to ultimate results and a disregard of passing appearances, such as will compare favorably with the highest diplomatic achievements of this or of any age.

Were there proof in detail wanted to support this assumption-and we do not think that Mr. Seward's bitterest party enemies among us demand such proof-it might be readily found in as many opposite quarters of the globe as there are civilized Governments in existence. Leaving out of account the disastrous failure of the Napoleonic policy in Mexico, and the retraction from its declared policy by the Government of Great Britain, there is enough to sustain the self-respect of every true American in the positive force of our diplomacy during the last five years. To the resolution and the moral force of Mr. Seward's policy, it is mainly due that San Domingo has not been reconverted into a colony of Spain; that Peru has not been compelled to sacrifice her independence to a superior invading force; that the bombardment of Valparaiso did not result in the establishment of a mixed European protectorate over Chili; that the United States have gained commercial ascendancy in Japanese and Chinese waters-within less than two years of the time when we had fair reason to suppose that our commerce was swept from the ocean; that we have got control of the North Pacific division of the continent—with more than a reversionary interest in the intermediate section; and that we enjoy the cordial friendship of the strongest military powers of Central and Eastern Europe. We may make slow progress with reconstruction. We may difficulties to overcome in the way o civil rehabitation as formidable as those which weighed upon the nation before Antietam and Vicksburg were fought; but when reunion is once accomplished—as most surely it will bewe shall have (North and South alike) a common triumph in this fact alone, that we stand before the world as a community strong in its purpose and integrity—the name of American citizens raised higher than it ever was before and the strength of a republicau system based upon intelligence, everywhere recognized. intelligence, industry, and freedom,

The pagress made towards a settlement of these belligerent claims with the Government of Great Brhain cannot be regarded as unsatisfactory. Some of the natural and necessary causes of delay have been already noticed. It has, however, besides, to be remembered that time is on our side. It has clearly been on ing Lord Clarendon's summary closing of the account with the concessions to reason and air-dealing offered by Lord Stanley. There

are, fortunately—looking to the tax upon human judgment involved in abstract discussions upon international rights and obligations -no further arguments of a general character to be presented on either side. The Ministers of the two countries have come to details. They have got common standing-ground, we take it, in this regard, that they assent to the necessity for a full and clear settlement of the claims growing out of the war, as preliminary to a perfect mutual under-standing. Mr. Seward's letter of August 27, 1866, revives the consideration of the question in terms which not only show a tho rough regard to the comity which should be maintained between the great nations having a common civilization, and, measurably, common aims, but which relieve Lord Stanley of much of the party odium which would neces-sarily attach to a Minister who contemplates the revision and the partial reversal of his predecessor's policy. With admirable temper, and in a kindly spirit, Mr. Seward says, upon the British privateering expeditions, and the concession of belligerent rights to the Southern belligerents:-

"This Government, while it thus insists upon these particular claims, is neither destrous nor willing to assume an attitude unkind or uncon-cillatory towards Great Britali. If on her part there are claims, either of a commercial character, or of bondary, or of commercial or judi-cial regulation, which her Majesty's Govern-ment esteem important to bring under exami-nation at the present time, the United States would in such case be not unwilling to take them into consideration in connection with the claims which are now presented on their part, and with a view to remove at one time and by one comprehensive settlement all existing causes of misunderstanding."

Some of the general points of argument in Mr. Seward's August letter Lord Stanley undertook to answer in a letter of two months' later date, to which Mr. Seward, in the beginning of the present year, made an elaborate reply. But the gist of the correspondence (additional to the frank and genial statement of the Secretary of State, as quoted textually above) is found in subsequent letters. Thus, on the 9th of March last, Lord

Stanley writes:-"The real matter at issue between the two Governments, when kept apart from collateral considerations, is whether in the matter con-nected with the vessels out of whose depreda-tions the claims of American citizens have arisen, the course pursued by the British Government, and by those who acted under its authority, was such as would involve a moral responsibility on the part of the British Government to make good, either in whole or in part, the losses of American citizens. This is a plain and simple question, easily to be seen part, the losses of American citizens. This is a plate and simple question, easily to be considered by an arbiter, and admitting of solution without raising other and wider issues; and on this question her Majesty's Government are fully prepared to go to arbitration, with the further provision that if the decision of the arbiter is unfavorable to the British view, the examination of the several claims of citizens of the United States shall be referred to a mixed commission, with a view to the settlement of the sums to be paid on them,"

In another part of this despatch, Lord Stan

In another part of this despatch, Lord Stanley says that in the proposal of the Queen's Government to arbitrate on the questions at issue, they desire limited reference to arbitration in regard to the so-called Alabama claims. and "adjudication by means of a mixed commission of mixed claims." This proposal Mr. Seward naturally interpreted as meaning that the Alabama claims alone, excluding the depredations of other privateers, were to be submitted to a mixed commission; but on this point Lord Stanley, writing on the 24th of May last, thus explains himself:—

"Mr. Seward says clearly enough that the Government of the United States cannot consent to a special and peculiar limitation of arbitration in regard to the Alabama claims, such as her Majesty's Government suggest; but, from his next observation, it might be inferred that the offer, as regards arbitration, made by her Majesty's Government, in my despatch of the 9th of March, was understood to have ap-plied only to claims arising out of the proceed-ings of the Alabams, to the exclusion of those Florida, Shenandoab, and Georgia. It is important to clear up this, and you will therefore state to Mr. Seward that the offer to go to arbion was not restricted to the claims arising out of the proceedings of the Alabama, but applied equally to those arising out of the like proceedings of the other vessels that I have

To this the final rejoinder made by Mr. Seward, on the 12th of last month, is as fol-

"The President considers these terms to be at once comprehensive and sufficiently precise to include all the ciaims of American citizens for include all the claims of American citizens for depredations upon their commerce during the late Rebellion, which have been the subject of complaint upon the part of this Government. But the United States Government, in this view, would deem itself at liberty to insist before the arbiter that the actual proceedings and relations of the British Government, its officers, agents, and subjects, towards the United States in regard to the Rebellion and the Rebels, as they occurred during the Rebel-United States in regard to the Rebellion and the Rebels, as they occurred during the Rebellion, are among the matters which are connected with the vessels whose depredations are complained of, just as in the case of general ciaims aliuded to by Lord Stanley, the actual proceedings and relations of ner Majesty's Government, its officers, agents, and subjects, in regard to the United States and in regard to the Rebellion and the Rebels, are necessarily connected with the transactions out of which those general claims arose."

The sum, then, of the difference between the two Governments, so far as reaching a fair basis of conference and arbitration is concerned, seems to be reduced to the question whether the policy as well as the acts of the British Government and its agents in relation to the late Rebellion shall come under review. The matter thus in dispute-if it is actually in dispute-does not seem material. The policy of the Qu. en's advisers will incidentally come under notice in determining the validity of the claims submitted. And we should judge that the principle of arbitrating these claims, if once heartily assented to on both sides, a settlement which shall prove mutually satisfactory to both Governments need not be long deferred.

Constitutional Liberty. From the N. Y. Tribune.

Governor English telegraphs to Governor Haight that his election "will gladden the friends of Constitutional liberty the country through." Governor Haight telegraphs back that "California has echoed the voice of Connecticut. * * * We have but followed where you led in the sacred cause of Constitutional liberty." What do these gentlemen

mean by Constitutional liberty? They certainly mean something different from that liberty affirmed in the glorious pre-amble to our fathers' Declaration of American Independence, when they proclaimed that "all men are created equal," and "endowed by their Creator with inalienable rights to life, liberty, and the pursuit of happiness." Constitutional liberty is something radically different from universal liberty, its champions themselves being judges. It is not that sort of liberty which Governor English advanced when, amid the despairing shrieks and howls of the devotees of "constitutional liberty," he voted to abolish and prohibit slavery throughvoted to abolish and prohibit slavery throughout this broad Republic. No, it is some-thing very different from that, as the two accidental Governors—one chosen such by a lavish expenditure of his own and other mildonaires money, and the other slipping in through a deplorable fend which distracted the Union party and kept twenty thousand of its voters from the polls—very well know.

John C. Calhoun was, for twenty years, the leading champion of "Constitutional liberty." Polk, Pierce, and Buchanan were his timid and cautious disciples. The asserted right of every slaveholder to plant slavery wherever be might choose, in defiance of whatever local or general repugnance, was a direct deduction from this doctrine of "Constitutional liberty." Abraham Lincoln touched the core of it when, in his canvass with Douglass, he defined squatter sovereignty thus:-"If A chooses to make B his slave, C shall not interfere." God be thanked that this swindling mockery disguised as "constitutional liberty" is not the liberty for which our fathers fought, nor that which their lineal sons are determined and destined to achieve!

Democratic Gains. From the N. Y. Tribune.

One who heeded only the uproarious reoicings of the Democratic press over the California election, might think that the Republican party was about to collapse and pass entirely out of existence. But that is not quite the fact. The election of a Governor in California is the only point gained over which the Democracy have legitimate reason to rejoice. We are not certain about Congressmen from that State, but it is probable that two of them are Republicans. Now let us see what wonderful gains the Democrats have made in the only place where gains can do them any good-that is, in the House of Representatives (the Senate is beyond their reach for half a century). The relative strength of parties in the last and present Congresses is as follows:-

XXXIXth Congress, XLth Congrest, Rep. Dem. Rep. Dem. Connecticut.... belaware ... ndians..... ows .. ansas. Centucky Maine..... Maryland Massachusetts.. Michigan Missouri.. Nebraska... New Hampshire..... New Jersey..... New York... Pennsylvania...... Rhode Island...... Tennessee ... Vermont. West Virginin ... 47 147 Total ..145

It appears that the Republicans have gained two members, and the Democrats lost onethe Nebraska member making the one extra. With more than three-fourths of each House of Congress, we think the Republican party will manage to survive the temporary check in California.

President Johnson and the Democratic Party.

From the N. Y. World. As soon as the result of the California election was known, many congratulations were tendered or sent to President Johnson. Whether he has also been felicitated on the Democratic gains in Maine we are not informed; but his share of the credit is just as great in the one case as in the other; or, to speak more bluntly, it is nothing in either. We do not deny that the great reaction ought to give him considerable satisfaction, although nothing he has done had any tendency to produce it. As a patriot honostly desiring the readmission of the Southern States, he must, of course, be glad to see his adversaries weakened. Nothing could well be more churlish or illiberal than to question his right to rejoice in the joy of the Democratic party. We should be quite willing to beat the bush and let him catch the bird, the country could thereby be benefited. But inasmuch as President Johnson has no proper identification with the Democratic party, and as a false impression of that kind would be a drag on the reaction, it may not be amiss to place the subject in its true light. The zeal with which the Democratic press has defended the President, so far as it deemed him right, must mislead nobody to suppose that he is in any degree responsible for us, or we for him. He can take no just offense at our repudiating his modes of operation, since he has uniformly discarded and repudiated ours.

Mr. Johnson is in no sense a Democratic President. We did not elect him; we have no claims upon him, nor have we ever set up any, except the common claim which all citizens have upon every Chief Magistrate, that he shall honestly support and defend the Constitution. If Mr. Johnson, elected as a Republican, had ever become a Democratic Presi dent, the change would be dated from such a reorganization of the personnel of the administration as placed the Government in Democratic hands. But no such reorganization has been made. Instead of a Cabinet consisting of men whom the Democratic party respect and confide in, President Johnson has chosen to be surrounded by a Republican Cabinet, from the first day of his accession until now. He has had occasion to appoint several foreign ministers; but in no case has he appointed a Democrat in standing with the party. General Dix, the most respectable of his appointees, though calling himself a Democrat, long ago dissolved his connection with the Democratic organization. Mr. Bancroft is a noted libellant of the Democratic party. Mr. Gowan, Mr. Raymond, and Mr. Greeley, who have been successively but unsuccessfully, nominated to the vacant Austrian mission, are highly respectable gentlemen, but they have never been Democrats. General Kilpatrick, after carrying New Jersey against the Democratic party by a campaign of venomous scurrility and defamation, was promptly rewarded by the mission to Chili. This was more than neglect; it was more than an ordinary affront; it was an open and wanton insult. New Jersey was the only Northern State which the Democratic party had carried for McClellan, and our pride would have been touched by its loss even if it had been taken from us by fair means. But when outrageous scurrilities prevailed against us in the home of our chosen candidate, the immediate promo-tion of the head libeller to a full foreign mission was an act which laid the party under no very deep obligation to the President. We did not complain even of this insult, for we had no claims of any kind on Mr. Johnson, and there was no good reason why a Republi-can President should not appoint to office men who had rendered acceptable services to the Republican party. We must not be under-stood to make these allusions, even now, in a tone of complaint. They are intended only as proofs that Mr. Johnson has never been, nor ever sought to be considered, a Democratic President. We happen to agree with him on a point on which he differs from his party; but that must not be taken as an indorsement of his maladroit, unstatesmanlike, unpopular

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Yatterns sent by mail or express to all parts of the Union. contention between him and Congress is a fight within the Republican party. The distracted condition of the country is chargeable upon the party that elected both the President and the majority of Congress, and we expect no relief or remedy but in the overthrow of that party. The Republicans cannot fix upon us any part of the odium which has resulted from their own success in the elections. Let the fault lie where it may, we are responsible for no part of it. We have not been in power. We are no more answerable for the Republican President whom we did not elect, and have not been permitted to advise, than we are for the Republican Congress which has kept up a perpetual quarrel with him. Mr. Johnson is your President, Messrs. Republicans, not ours; from your party he has taken all his responsible advisers; on you he has bestowed all his offices; he has kept you in power by mistakes and blunders more serviceable to you than cooperation; and whether you deem him a blessing or a bane, its origin is, in either case,

to be traced to your selection and your votes.

In the recent talk about Cabinet changes the Republicans have been willing to favor the impression that Mr. Johnson intends to form a Democratic administration. Even if he were willing, and representative Democrats would consent, such an arrangement would be every way undesirable. Its only effect would be to render the Democratic party responsible for blunders and mismanagement perpetrated against its judgment and in contempt of its wishes. We should gain a few paltry offices without influence, and go into the Presidential election vulnerable by all the weapons which the Republicans hurl at Mr. Johnson. As he gave us no aid when he might have aided us, why should we now, when he has no longer anything valuable to give, imperil our own cause by assuming the burden of his unpopularity? As things stand, the Republican invectives against Mr. Johnson impeach their ability to choose a good President. A man might as wisely think to improve his social standing by living with somebody's repudiated wife, as for the Democratic party to expect any advantage from adopting, in the last days of his unsuccessful administration, a fettered President, elected by their enemies and popular with nobody.

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